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FISCAL IMPACT STATEMENT

LS 6335

BILL NUMBER: SB 49

NOTE PREPARED: Jan 8, 2007

BILL AMENDED: Jan 8, 2007

SUBJECT: Probate Administration.

FIRST AUTHOR: Sen. Zakas

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: The bill provides that when a court has not directed notice by rule, the default certified or registered mail option is replaced by the option to provide notice by first class postage prepaid mail. It specifies that the notice provided by the Clerk of Court to an heir, a devisee, a legatee, or a creditor when letters testamentary or of administration are issued shall be served by certified mail. It also provides that the notice requirements applying to hearings on filed estate accountings also apply to a hearing on a petition for a court to decree the final distribution of an estate.

The bill requires notice to be given by certified mail when a petition for the appointment of a guardian or for the issuance of a protective order is filed under the Probate Code. It specifies that when a petition for appointment of a guardian or for the issuance of a protective order is filed with the court, notice of the petition and the hearing on the petition shall be given by certified mail. It also removes a provision requiring that notices concerning guardianship petitions be given according to the notice requirements applicable to hearings on guardianship petitions.

(The introduced version of this bill was prepared by the Probate Code Study Commission.)

Effective Date: July 1, 2007.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: The bill changes the general requirement for notice by mail that is

provided when the probate court does not direct by rule the manner in which notice is to be given. The bill changes the manner of notice from registered or certified mail to first class postage prepaid mail. This could potentially reduce the cost of notice provided by mail when the probate court does not provide notice requirements.

The bill also narrows the manner of notice in several instances to certified mail notification. This notice change involves when notice is provided:

- (1) to an heir, devisee, legatee, or creditor when letters testamentary or of administration are issued.
- (2) when a petition for the appointment of a guardian or for the issuance of a protective order is filed under the probate code.
- (3) when a petition for appointment of a guardian or for the issuance of a protective order is filed with the probate court.

The bill defines the notification that must be provided prior to a petition for the court to decree the final distribution of an estate. Current statute requires notice of the hearing to be given to all interested parties. The bill requires the notice to be given at least 14 days prior to the hearing by ordinary mail to all persons entitled to a share in the final distribution of the residue of the estate. The potential impact of this change is unknown. It would depend on how such notice is currently given by courts (i.e., registered mail, certified mail, or ordinary mail) and whether notification is currently being given to persons other than those entitled to a share of the estate.

The potential impact of these changes is unknown and would depend on how such notice is currently being given by probate courts.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Probate courts.

Information Sources:

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